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## HUESTON HENNIGAN LLP

February 23, 2022

**By ECF**

The Honorable Naomi Reice Buchwald  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007-1312

Re: *Marianne Gerschel v. Bank of America N.A.*, Case No. 1:20-cv-05217 (NRB)  
Request to Adjourn March 7, 2022 Status Conference

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Dear Judge Buchwald:

I write to respectfully request a brief adjournment of the Status Conference in this action that the Court recently set for March 7, 2022 (*see* ECF Nos. 55, 56) to a date of the Court's convenience during the week of March 28 or thereafter.

I am the lead (and presently sole) counsel for Intervenor-Defendants Patrick Gerschel and Mark Giannone. I am currently engaged in a jury trial in San Francisco Superior Court before the Hon. Harold E. Kahn that began on February 22 (yesterday) and is expected to continue for approximately four weeks. The case is sitting five days per week, and I thus do not currently anticipate that I will be able to attend a conference in this matter on March 7, 2022.

On Friday, February 18, 2022 (the day that the Court set the Status Conference for March 7), I wrote counsel for the other parties and advised them of my conflict and intent to request the continuance above, and asked whether they had any scheduling conflicts that they would like me to relay to the Court in my request. Counsel for Defendant Bank of America responded and stated that he was generally available during the period proposed (i.e., the week of March 28 or thereafter), and counsel for the other Intervenor-Defendants responded that she is generally available with the exception of April 14 and 22.

Counsel for Plaintiff did not respond to my February 18 email. Instead, they today filed a letter with the Court containing numerous requests, including to file four separate motions, as well as a preemptive objection to any continuance of the March 7 Status Conference. (*See* ECF No. 56 at 1-4.) The letter suggests that Plaintiff opposes a continuance of the Status Conference to the week of March 28 because it would delay distributions of trust income purportedly owed to Plaintiff, including a distribution "that she is expected to receive on March 31, 2022..." (*Id.* at 4.) This is the first the undersigned has heard of this issue. Regardless, we are at a loss to understand how a brief continuance of a status conference could possibly affect the timing of distributions of trust income, given that income distributions are not at issue in this case. Moreover, even if income distributions *were* at issue, a brief continuance of a status conference set for early next month will

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almost certainly have no bearing on whether a distribution purportedly due at the end of the month will occur at that time, as this case is at an early stage, with no dispositive motions pending and no discovery conducted.<sup>1</sup>

I thus respectfully reiterate the request for a brief adjournment of the Status Conference to a date of the Court's and parties' convenience in or after the week of March 28 (subject to the conflicts for counsel on April 14 and 22 described above).

Respectfully submitted,



Marshall A. Camp  
Counsel for Proposed Intervenor-Defendants  
Patrick Gerschel and Mark Giannone,  
*in their capacities as trustees of the 1950 Patrick Trust*

cc: All counsel of record (via ECF & e-mail)

Application granted. The conference scheduled for March 7, 2022 is adjourned to March 28, 2022 at 3:00 p.m.

**SO ORDERED.**



NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

Dated: February 24, 2022  
New York, N.Y.

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<sup>1</sup> Intervenor-Defendants intend to respond separately and to the extent appropriate to the other matters set forth in Plaintiff's letter, including the requests to file various motions.